

123 FERC ¶ 61,095
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

April 29, 2008

In Reply Refer To:
Texas Eastern Transmission, LP
Docket Nos. RP08-267-000
RP08-267-001

Texas Eastern Transmission, LP
5400 Westheimer Court
Houston, Texas 77056-5310

Attention: David A. McCallum
Director, Rates and Tariff

Reference: *See Appendix for List of Tariff Sheets*

Dear Mr. McCallum:

1. On March 7, 2008, Texas Eastern Transmission, LP (Texas Eastern) filed certain tariff sheets to revise the form of service agreements for the open-access rate schedules in its FERC gas tariff to remove redundancies between the service agreements and the tariff in order to streamline the agreements, and thereby remove the potential for inadvertent discrepancies. Texas Eastern requests an effective date of May 1, 2008. Limited protests to the proposal were filed, and Texas Eastern subsequently filed a request to withdraw First Revised Sheet No. 381, which it had submitted in its original filing. As discussed below, the Commission accepts the revised tariff sheets to be effective May 1, 2008, subject to the discussion below, and grants the request for withdrawal of First Revised Sheet No. 381.

Details of the Instant Filing

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2. Texas Eastern states that the forms of service agreement in its tariff incorporate by reference the appropriate rate schedule and all of the General Terms and Conditions (GT&C) of the tariff, and that this allows the revised form of service agreements to be considerably shorter. Texas Eastern also states that the revised forms of service

agreement under its firm, open-access rate schedules¹ have been further streamlined by moving the information related to contract quantities to new exhibits, and by removing the blanks for attestations from wherever they may have appeared in the form of service agreements.

3. Section 6.3 of Rate Schedule SS-1 currently provides that Texas Eastern shall not be obligated to withdraw a total daily quantity in excess of (1) the shipper's Maximum Daily Withdrawal Quantity (MDWQ), if the customer's storage inventory is more than 20 percent of its Maximum Storage Quantity (MSQ), (2) five sixths of the customer's MDWQ if its storage inventory is between 10 and 20 percent of its MSQ, and (3) two-thirds of the customer's MDWQ if its storage inventory is 10 percent or less of its MSQ. Section 6.3 also included limits on customer's storage withdrawal rights based on the aggregate Storage Inventory of all customers. In the instant filing, Texas Eastern proposes to remove these storage withdrawal ratchet provisions and revise section 6.3 to state only that Texas Eastern is not obligated to withdraw quantities in excess of the applicable storage withdrawal entitlement set forth in Exhibit B of the shipper's SS-1 Service Agreement. Texas Eastern also proposes to revise Exhibit B to the Rate Schedule SS-1 form of service agreement to provide blanks for listing the shippers' MDWQs. Texas Eastern also describes several housekeeping and other revisions to its form of service agreements as part of the effort to streamline its contracting process.

4. Texas Eastern also states that it moved the blanks for providing contract quantities, including partial reduction quantities, in the Scope of Agreement for the firm services to the new exhibits in the revised Form of Service Agreements. Texas Eastern states that the new exhibits are Exhibit D for Rate Schedules CDS, FT-1, and SCT; Exhibit C for Rate Schedules LLFT, VKFT, MLS-1, and SS-1; and Exhibit A for Rate Schedule FSS-1. In each of these cases, Texas Eastern explains that the new exhibits also contain the right of first refusal language that had been contained under the Scope of Agreement.

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5. On March 31, 2008, Texas Eastern filed a request to withdraw First Revised Sheet No. 381. That tariff sheet contained Texas Eastern's proposal to remove the storage withdrawal ratchet provisions from section 6.3 of Rate Schedule SS-1, and instead provide that the customer's storage withdrawal rights would be as stated in Exhibit B to

¹ Citing Rate Schedules CDS, FT-1, SCT, LLFT, VKFT, MLS-1, SS-1, and FSS-1. Rate Schedule CDS is Comprehensive Delivery Service; FT-1 is Firm Transportation Service; SCT is Small Customer Transportation Service; LLFT is Lebanon Lateral Firm Transportation Service; VKFT is Viosca Knoll Firm Transportation Service; MLS-1 is Market Lateral Service; and SS-1 and FSS-1 are both Storage Services.

their SS-1 service agreements. Texas Eastern notes that the limited protests to its filing (described below) asserted that this proposal had the effect of improperly permitting Texas Eastern to negotiate storage withdrawal ratchets with individual customers, which would allow some shippers to negotiate more favorable storage withdrawal ratchets than other shippers.

6. Texas Eastern states that although it does not agree with the limited protestors' comments, it requests the Commission to allow it to withdraw its proposal to delete the specific storage withdrawal ratchets listed in Rate Schedule SS-1 on Original Sheet No. 381, while reserving the right to make similar changes in the future. Texas Eastern further states that any service agreements which it executes containing Storage Withdrawal Quantity ratchets differing from those specific ratchets listed in Rate Schedule SS-1 on Sheet No. 381 will be filed as non-conforming agreements, except those agreements attributable to capacity release transactions.

Notice, Interventions, Comments and Protests

7. Public notice of the filing in Docket No. RP08-267-000 was issued on March 11, 2008. Interventions and protests were due as provided in section 154.210 of the Commission's regulations.² Public notice of the requested withdrawal of First Revised Sheet No. 381 was issued on March 31, 2008. Comments were due on April 9, 2008. Pursuant to Rule 214,³ all timely motions to intervene and any motions to intervene out-of-time filed before the issuance date of this order are granted. Granting late intervention at this stage of the proceeding will not disrupt this proceeding or place additional burdens on existing parties. In Docket No. RP08-267-000, Indicated Shippers⁴ and Philadelphia Gas Works (PGW) filed limited protests and the New England Local Distribution Companies filed comments stating that they reserve their right to supplement their pleading with further comments. Indicated Shippers filed comments on the requested withdrawal in Docket No. RP08-267-001. The limited protests and Indicated Shippers' comments are discussed below.

8. In their limited protest, Indicated Shippers assert that Texas Eastern's proposal to remove the generally applicable storage withdrawal ratchet provisions from Rate Schedule SS-1 and instead allow negotiable storage withdrawal ratchets should be rejected by the Commission as potentially unduly discriminatory and contrary to Commission policy and precedent.

² 18 C.F.R. § 154.210 (2007).

³ 18 C.F.R. § 385.214 (2007).

⁴ Indicated Shippers consist of Anadarko Petroleum Corporation, Anadarko Energy Services Company, and Hess Corporation.

9. Indicated Shippers contend that currently, all SS-1 shippers are subject to the same storage withdrawal ratchets and, therefore receive the same quality of SS-1 service, unless the shipper and Texas Eastern enter into a non-conforming service agreement. Indicated Shippers argue that if a shipper and Texas Eastern enter into a non-conforming service agreement, the agreement is subject to notice, comment and a specific Commission determination that the non-conforming provision is not unduly discriminatory. Indicated Shippers assert that under limited and unique circumstances, the Commission has accepted certain SS-1 service agreements containing storage withdrawal ratchet provisions that differ materially from the Rate Schedule SS-1 withdrawal ratchets. Indicated Shippers further assert that the Commission has accepted non-conforming SS-1 storage withdrawal ratchets included in certain Texas Eastern service agreements that reflect the combined withdrawal flexibility previously available under each customer's separate pre-Order No. 636 contracts and that were long relied upon.⁵

10. However, Indicated Shippers argue that under Texas Eastern's proposal, all SS-1 shippers would not necessarily have the same storage withdrawal ratchet rights and that Texas Eastern and SS-1 shippers would be able to fill in the blanks regarding the storage withdrawal ratchets. Indicated Shippers assert that, as a result, Texas Eastern could offer, and some shippers would be able to negotiate, more favorable storage withdrawal ratchets than other shippers.

11. PGW states it shares Indicated Shippers' concerns that Texas Eastern has not shown that its proposed changes to the form of service agreement under Rate Schedule SS-1 have been shown to be just and reasonable. PGW requests the Commission reject these proposed changes.

12. In their comments on Texas Eastern's requested withdrawal of First Revised Sheet No. 381, Indicated Shippers state that subject to the clarifications pursuant to its understanding of Texas Eastern's current proposal, as discussed in detail below, Texas Eastern's withdrawal of proposed First Revised Sheet No. 381 should address the concerns raised in its limited protest.

Discussion

13. For the reasons discussed below, the Commission accepts the revised tariff sheets to be effective May 1, 2008, and grants the request for withdrawal of First Revised Sheet No. 381. Under the Commission's interpretation of Texas Eastern's proposal, as discussed below, the concerns expressed in the limited protests are adequately addressed.

⁵ Citing *Texas Eastern Transmission, LP*, 119 FERC ¶ 61,337, at P 12 (2007).

14. Texas Eastern has requested the withdrawal of the revised tariff sheet in Rate Schedule SS-1, First Revised Sheet No. 381, which modified section 6.3 of Rate Schedule SS-1 to allow customers the right to negotiate ratchets for storage withdrawals. As described above, existing section 6.3 sets forth storage withdrawal ratchets applicable to all its Rate Schedule SS-1 customers based upon what percentage of their maximum storage quantity they have in storage. Although Texas Eastern continues to propose including fill-in-the-blanks in Exhibit B of the SS-1 Form of Service Agreement, it states that any service agreement it executes containing storage withdrawal ratchet provisions that do not comply with section 6.3 of Rate Schedule SS-1 would be filed as non-conforming agreements, except those agreements attributable to capacity release transactions.⁶ Consistent with Indicated Shippers' understanding of the first part of Texas Eastern's clarification, in order to be considered conforming SS-1 service agreements, the agreements must conform to section 6.3 of Rate Schedule SS-1 and the blanks in Exhibit B for each customer's storage ratchets must be filled in with dekatherm amounts calculated in accordance with the provisions of section 6.3.

15. However, consistent with Indicated Shippers' interpretation of the second part of Texas Eastern's statement that non-conforming service agreements attributable to capacity release transactions would not be filed, such replacement agreements would not be required to be filed only in the limited circumstance where the releasing shipper's non-conforming service agreements have been accepted by the Commission and subsequently are released to a replacement shipper containing identical non-conforming provisions. In all other circumstances, Texas Eastern must file for Commission review and acceptance all agreements with replacement shippers that do not otherwise conform to the Texas Eastern Form of Service Agreements.

By direction of the Commission.

Nathaniel J. Davis, Sr.,
Deputy Secretary.

cc: All Parties
Public File

⁶ The Commission generally does not approve non-conforming agreements that result in a customer receiving a different quality of service than that offered other customers under the pipeline's generally applicable tariff.

APPENDIX

Texas Eastern Transmission, L P
Docket No. RP08-267-000
FERC Gas Tariff, Seventh Revised Volume No. 1

Withdrawn

First Revised Sheet No. 381

Accepted, effective May 1, 2008

First Revised Sheet No. 206
Second Revised Sheet No. 216
First Revised Sheet No. 229
First Revised Sheet No. 284
First Revised Sheet No. 297C
Second Revised Sheet No. 298
First Revised Sheet No. 338
First Revised Sheet No. 350
First Revised Sheet No. 351
First Revised Sheet No. 380
First Revised Sheet No. 389
First Revised Sheet No. 390
First Revised Sheet No. 398
First Revised Sheet No. 399
Fourth Revised Sheet No. 500
Seventh Revised Sheet No. 508
First Revised Sheet No. 601
Second Revised Sheet No. 641
Third Revised Sheet No. 801
Third Revised Sheet No. 802
Fourth Revised Sheet No. 803
Second Revised Sheet No. 804
First Revised Sheet No. 805
First Revised Sheet No. 806
First Revised Sheet No. 807
First Revised Sheet No. 812
Third Revised Sheet No. 815
Third Revised Sheet No. 816
Fourth Revised Sheet No. 817
Second Revised Sheet No. 818
First Revised Sheet No. 819
First Revised Sheet No. 820

First Revised Sheet No. 821
First Revised Sheet No. 826
Third Revised Sheet No. 830
Third Revised Sheet No. 831
Fourth Revised Sheet No. 832
Second Revised Sheet No. 833
First Revised Sheet No. 834
First Revised Sheet No. 835
First Revised Sheet No. 836
First Revised Sheet No. 841
Second Revised Sheet No. 857
Third Revised Sheet No. 858
First Revised Sheet No. 859
First Revised Sheet No. 860
First Revised Sheet No. 861
Third Revised Sheet No. 862
Third Revised Sheet No. 863
Fourth Revised Sheet No. 864
Second Revised Sheet No. 865
First Revised Sheet No. 866
First Revised Sheet No. 867
First Revised Sheet No. 868
First Revised Sheet No. 871
First Revised Sheet No. 872
Third Revised Sheet No. 873
First Revised Sheet No. 874
First Revised Sheet No. 875
First Revised Sheet No. 876
Third Revised Sheet No. 877
Third Revised Sheet No. 878
Fourth Revised Sheet No. 879
Second Revised Sheet No. 880

First Revised Sheet No. 881
First Revised Sheet No. 882
First Revised Sheet No. 883
Original Sheet No. 885A
First Revised Sheet No. 886
Third Revised Sheet No. 887
First Revised Sheet No. 888
First Revised Sheet No. 889
First Revised Sheet No. 890
Third Revised Sheet No. 890A
Fifth Revised Sheet No. 890B
Third Revised Sheet No. 890C
Third Revised Sheet No. 890D
Second Revised Sheet No. 890E
Original Sheet No. 890H
Third Revised Sheet No. 891
First Revised Sheet No. 892
First Revised Sheet No. 893
First Revised Sheet No. 894
First Revised Sheet No. 895
First Revised Sheet No. 896
First Revised Sheet No. 897
First Revised Sheet No. 926
First Revised Sheet No. 927
First Revised Sheet No. 928
First Revised Sheet No. 929
First Revised Sheet No. 930
First Revised Sheet No. 931
First Revised Sheet No. 932
Second Revised Sheet No. 937
First Revised Sheet No. 938
First Revised Sheet No. 939

First Revised Sheet No. 940
First Revised Sheet No. 942
Second Revised Sheet No. 943
First Revised Sheet No. 944
First Revised Sheet No. 945
Third Revised Sheet No. 945A
Third Revised Sheet No. 946
Fourth Revised Sheet No. 947
Third Revised Sheet No. 948
Second Revised Sheet No. 949
First Revised Sheet No. 950
First Revised Sheet No. 951
Second Revised Sheet No. 953
Second Revised Sheet No. 954
Original Sheet No. 955
Sheet Nos. 956 - 958
Third Revised Sheet No. 959
Fourth Revised Sheet No. 960
Third Revised Sheet No. 961
Second Revised Sheet No. 962
First Revised Sheet No. 963
First Revised Sheet No. 964
First Revised Sheet No. 965
Original Sheet No. 966
Sheet Nos. 967 - 970
First Revised Sheet No. 971
Third Revised Sheet No. 972
First Revised Sheet No. 973
First Revised Sheet No. 974
First Revised Sheet No. 975